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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/890,143 | 09/890,143 07/26/2001 Masaki Yan | | SHIG19990241 | 7584 |
| 21171 STAAS & HAL | 7590 10/15/200 SEY LLP | EXAMINER | | |
| SUITE 700 | | KAO, CHIH CHENG G | | |
| 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005 | | | ART UNIT | PAPER NUMBER |
| | | | 2882 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief

| Application No. | Applicant(s) | | |
|---------------------|------------------|--|--|
| 09/890,143 | YAMAMOTO, MASAKI | | |
| Examiner | Art Unit | | |
| Chih-Cheng Glen Kao | 2882 | | |

| Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). For purposes of appeal, the proposed amendment(s): a) \(\) will not be entered, or b) \(\) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. The status of the claim(s) is (or will be) as follows: Claim(s) allowed: \(\) 37. Claim(s) eljected to: Claim(s) rejected: \(\) 31-36.38.39 \(\) and \(\) 42-60. Claim(s) withdrawn from consideration: AFFIDAVIT OR OTHER EVIDENCE 8. \(\) The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will \(\) not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. \(\) The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will \(\) not be entered because the affidavit or other evidence failed to overcome \(\) all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. \(\) The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. \(\) The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \(\) (Chih-Cheng Glen Kao/ | | | 9 | |
|---|--|--|---|---|
| 1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31: or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 11.14. The reply must be filed within one of the following prior and the period for reply expires on: (1) the mailing date of the final rejection. b) ☑ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no evert, however, will the statutory period for reply expires on: (1) the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRAL REJECTION. See MFEP 70.67(7). Extensions of time may be obtained under 37 CFR 1.198(a). The date on which the petition under 37 CFR 1.198(a) and the appropriate extension fee number 57 CFR 1.178(a) is calculated from: (1) the expiration date of the shortened structory period for reply originally set in the final Office action; (c) as any revolue any examed patent term adjustment. See 37 CFR 1.79(b). NOTICE OF APPEAL 2. □ The Notice of Appeal was filed on A brief in compliance with 37 CFR 4.137 must be filed within two months of the date of filing the Notice of Appeal was been filed, any reply must be filed within the time period set forth in 37 CFR 4.137(a). AMENDMENTS □ The Notice of Appeal was been filed, any reply must be filed within the time period set forth in 37 CFR 4.137(a). AMENDMENTS □ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise the issue of new matter (see NOTE below); (b) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or | T <i>f</i> | ne MAILING DATE of this communication appears on t | he cover sheet with the d | correspondence address |
| 1. ☑ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31: or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 11.14. The reply must be filed within one of the following prior and the period for reply expires on: (1) the mailing date of the final rejection. b) ☑ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no evert, however, will the statutory period for reply expires on: (1) the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRAL REJECTION. See MFEP 70.67(7). Extensions of time may be obtained under 37 CFR 1.198(a). The date on which the petition under 37 CFR 1.198(a) and the appropriate extension fee number 57 CFR 1.178(a) is calculated from: (1) the expiration date of the shortened structory period for reply originally set in the final Office action; (c) as any revolue any examed patent term adjustment. See 37 CFR 1.79(b). NOTICE OF APPEAL 2. □ The Notice of Appeal was filed on A brief in compliance with 37 CFR 4.137 must be filed within two months of the date of filing the Notice of Appeal was been filed, any reply must be filed within the time period set forth in 37 CFR 4.137(a). AMENDMENTS □ The Notice of Appeal was been filed, any reply must be filed within the time period set forth in 37 CFR 4.137(a). AMENDMENTS □ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise the issue of new matter (see NOTE below); (b) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or | THE REPLY F | FILED <u>08 October 2008</u> FAILS TO PLACE THIS APPLICA | TION IN CONDITION FOR | R ALLOWANCE. |
| n) | The replaying applicating applicating for Cont | y was filed after a final rejection, but prior to or on the sam ion, applicant must timely file one of the following replies: (ion in condition for allowance; (2) a Notice of Appeal (with inued Examination (RCE) in compliance with 37 CFR 1.11 | e day as filing a Notice of A (1) an amendment, affidavit appeal fee) in compliance | Appeal. To avoid abandonment of this t, or other evidence, which places the with 37 CFR 41.31; or (3) a Request |
| Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee nave been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked, Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL. 2. The Notice of Appeal was filed on | a) The b) The no e Exar | period for reply expiresmonths from the mailing date of the period for reply expires on: (1) the mailing date of this Advisory A vent, however, will the statutory period for reply expire later than sminer Note: If box 1 is checked, check either box (a) or (b). ONLY | ction, or (2) the date set forth i SIX MONTHS from the mailing | date of the final rejection. |
| 2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 (a)), to avoid dismissal of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). 3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below); (b) ☐ They raise the issue of new matter (see NOTE below); (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)). 4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). 5. ☐ Applicant's reply has overcome the following rejection(s): 6. ☐ Newly proposed or amended claim(s) would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s) is (or will be) as follows: Claim(s) allowed: 37. 7. ☑ For purposes of appeal, the proposed amendment(s): a) ☑ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended. 7. ☐ The status of the claim(s) is (or will be) as follows: Claim(s) objected to: | Extensions of til have been filed under 37 CFR 1 set forth in (b) a may reduce any | me may be obtained under 37 CFR 1.136(a). The date on which is the date for purposes of determining the period of extension ar .17(a) is calculated from: (1) the expiration date of the shortened bove, if checked. Any reply received by the Office later than three earned patent term adjustment. See 37 CFR 1.704(b). | nd the corresponding amount of statutory period for reply origi | of the fee. The appropriate extension fee nally set in the final Office action; or (2) as |
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| 5. Applicant's reply has overcome the following rejection(s): | (d) TI | ney present additional claims without canceling a corresponding. See Continuation Sheet. (See 37 CFR 1.116 and 4 | 1.33(a)). | |
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| The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER The request for reconsideration has been considered but does NOT place the application in condition for allowance because: Description: Note the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s). (Chih-Cheng Glen Kao/ | 7. For purp how the The stat Claim(s) Claim(s) Claim(s) Claim(s) Claim(s) | will no new or amended claims would be rejected is provided belows of the claim(s) is (or will be) as follows: allowed: 37. b) objected to: rejected: 31-36,38,39 and 42-60. withdrawn from consideration: | | be entered and an explanation of |
| because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e). 9. The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). (Chih-Cheng Glen Kao/ | | | | |
| entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1). 10. The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached. REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 13. Other: | because | e applicant failed to provide a showing of good and sufficie | | |
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| 12. Note the attached Information <i>Disclosure Statement</i> (s). (PTO/SB/08) Paper No(s) 13. Other: /Chih-Cheng Glen Kao/ | REQUEST FO | OR RECONSIDERATION/OTHER | | • |
| 13. ☐ Other: /Chih-Cheng Glen Kao/ | 11. ∐ The red | quest for reconsideration has been considered but does N | OT place the application in | condition for allowance because: |
| | | | 8/08) Paper No(s) | |
| Primary Examiner, Art Unit 2882 | | | /Chih-Cheng Glen Kao/ Primary Examiner, Art U | nit 2882 |

Continuation of 3. NOTE:

Regarding at least claim 31, the proposed amended claim recitations, including "corrects a wavefront aberration ... that would have been caused by the error of shape of the substrate if said at least one cycle of alternating layers were not cut away", raises new issues that would require further consideration and/or search.

Regarding at least claim 38, the proposed amended claim recitations, including "corrects a wavefront aberration ... that would have been caused by the error of shape of the substrate if said at least one pair of layers successively arranged from the outermost surface of the multilayer film did not have said predetermined portion", raises new issues that would require further consideration and/or search.

Regarding at least claim 48, the proposed amended claim recitations, including "corrects a wavefront aberration ... that would have been caused by the error of shape of the substrate if said at least one repeated pair of layers successively arranged from the outermost surface of the multilayer film did not have said predetermined portion", raises new issues that would require further consideration and/or search.

Regarding at least claim 49, the proposed amended claim recitations, including "corrects a wavefront aberration ... that would have been caused by the error of shape of the substrate if said at least one pair of layers successively arranged from the outermost surface of the multilayer film did not have said predetermined portion", raises new issues that would require further consideration and/or search.

Regarding at least claim 59, the proposed amended claim recitations, including "corrects a wavefront aberration ... that would have been caused by the error of shape of the substrate if the stack did not have said cut away portion", raises new issues that would require further consideration and/or search.

Regarding at least claim 60, the proposed amended claim recitations, including "corrects a wavefront aberration ... that would have been caused by the error of shape of the substrate if said at least one cycle did not make a correction", raises new issues that would require further consideration and/or search.